



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,528	04/02/2004	Shona L. Nelson	340.192	5789

27019 7590 07/28/2006

THE CLOROX COMPANY
P.O. BOX 24305
OAKLAND, CA 94623-1305

EXAMINER

DOUYON, LORNA M

ART UNIT PAPER NUMBER

1751

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary	Application No. 10/817,528	Applicant(s) NELSON ET AL.	
	Examiner Lorna M. Douyon	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 25-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/2/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a cleaning composition and system, classified in class 510, subclass 406.
 - II. Claims 14-24, drawn to a method of controlling dust mites and allergens on a surface, classified in class 424, subclass 405.
 - III. Claims 25-27, drawn to a method of controlling dust mites and allergens in the air, classified in class 422, subclass 4.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II or III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the product as claimed can be used in a materially different process such as in cleaning semiconductor wafers.

3. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs, and mode of operation.

Art Unit: 1751

4. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

5. During a telephone conversation with David Peterson on July 19, 2006 a provisional election was made with traverse to prosecute the invention of Group II, claims 14-24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-13 and 25-27 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

7. Claims 14-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1751

Claim 14 recites the limitation “said textile surface” in line 7. There is insufficient antecedent basis for this limitation in the claim.

In claim 15, lines 1-2, the phrase “at least 50% an effective at killing the dust mites...” is not understood.

Claims 16-24, being dependent upon claim 14, are rejected as well.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 14-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Zocchi et al. (US Patent No. 6,080,792), hereinafter “Zocchi”.

Art Unit: 1751

Zocchi teaches foam compositions which are used for treating textile surfaces of interior furnishings such as carpets for the purpose of killing dust mites (see col. 1, lines 9-12), and the foam compositions can be readily removed from the treated surface by post vacuuming (see col. 1, lines 54-57), wherein the foam composition comprises a hydrocarbon propellant, ether solvent such as ethylene glycol monobutyl ether, ethylene glycol monoacetate and dipropylene glycol propionate (see col. 1, line 61 to col. 3, line 4). Zocchi teaches carpet which is treated with a foam cleaning composition comprising diethylene glycol monobutyl ether, and isobutane and propane propellants, wherein 100% dead dust mites were observed from a neat product in a 30 minute contact time (see Example 1 under col. 9, lines 1-45). The presence of the propellant indicates that the composition is packaged in an aerosol container. Even though Zocchi does not explicitly disclose the solubility in water of the glycol ether and its vapor pressure, the glycol ethers of Zocchi inherently possess a solubility in water and vapor pressure within those recited because the same glycol ethers have been utilized. Hence, Zocchi anticipates the claims.

10. Claims 14-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Garabedian et al. (US 2004/0144406), hereinafter "Garabedian".

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Art Unit: 1751

Garabedian teaches a method of cleaning carpets by applying an aerosol carpet cleaning composition to the carpet, wiping the carpet with a cleaning implement comprising a disposable cleaning substrate, and allowing the carpet to dry (see paragraph 0205 on page 18). Another method of cleaning carpets is by applying an aerosol carpet cleaning composition to the carpet, optionally wiping the carpet with a substrate, allowing the carpet to dry, and optionally vacuuming (see paragraph 0214 on page 19). The aerosol cleaning composition includes organic solvents such as alkylene glycol ethers, and acetate and propionate esters of glycol ethers (see 0087 on pages 6-7). In Example A, Garabedian teaches an aerosol cleaning composition comprising dipropylene glycol n-propyl ether and propellant (see Table I on page 19). Even though Garabedian does not explicitly disclose the solubility in water of the glycol ether, its vapor pressure, the kill rate of the composition and its use for controlling dust mites and allergens, the glycol ethers of Garabedian inherently possess a solubility in water, vapor pressure and kill rate within those recited because the same glycol ethers have been utilized. In addition even though Garabedian does not teach use of his composition for controlling dust mites and allergens, the two different intended uses are not distinguishable in terms of the composition, see *In re Thuau*, 57 USPQ 324; *Ex parte Douros*, 163 USPQ 667; and *In re Craige*, 89 USPQ 393. Hence, Garabedian anticipates the claims.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 1751

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 14-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Klier et al. (US Patent No. 5,597,792), hereinafter "Klier".

Klier teaches high water content oil continuous microemulsions and emulsions containing one or more organic solvents (see abstract) for use in metal cleaning, dry cleaning, fabric cleaning (which includes carpet) and as a laundry pretreater, and in aerosol, pump, spray or liquid formulations (see col. 2, lines 49-61). Suitable organic solvents include alkylene glycol monoethers and alkylene glycol ether acetates (see col. 4, line 57 to col. 5, line 16). In Example 8, Klier teaches a microemulsion comprising PnB, PnP pressurized with propane (see col. 16, lines 35-50, Table 8 under cols. 17-18). When the microemulsions and emulsions are used in dry cleaning, fabric cleaning and laundry pretreating, it is understood that the microemulsions and emulsions are applied to the fabric or laundry. Even though Klier does not explicitly disclose the solubility in water of the glycol ether, its vapor pressure, the kill rate of the composition and it

Art Unit: 1751

use for controlling dust mites and allergens, the glycol ethers of Klier inherently possess a solubility in water, vapor pressure and kill rate within those recited because the same glycol ethers have been utilized. In addition even though Klier does not teach use of his composition for controlling dust mites and allergens, the two different intended uses are not distinguishable in terms of the composition, see *In re Thuau*, 57 USPQ 324; *Ex parte Douros*, 163 USPQ 667; and *In re Craige*, 89 USPQ 393. Hence, Klier anticipates the claims. The wiping and vacuuming steps in the present claims are only optional and need not be taught by Klier. Even if the teachings of Klier are not sufficient to anticipate the claims, it would have been nonetheless obvious to one of ordinary skill in the art at the time the invention was made to prepare a composition comprising alkylene glycol monoethers and alkylene glycol ether acetates for dry cleaning, fabric cleaning and laundry pretreating because the teachings of Klier encompass these aspects and to reasonably expect the laundry or fabric, during pretreatment to be wiped with a cleaning substrate because laundry or fabric pretreatment requires such step.

Conclusion

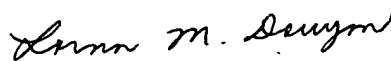
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

Art Unit: 1751

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Lorna M. Douyon
Primary Examiner
Art Unit 1751